

FIRST REGULAR SESSION

# SENATE BILL NO. 458

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Read 1st time February 6, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1708S.02I

## AN ACT

To repeal sections 416.615 and 416.640, RSMo, and to enact in lieu thereof two new sections relating to the sale of motor fuel.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 416.615 and 416.640, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 416.615 and 416.640, to  
3 read as follows:

416.615. 1. It is unlawful for any person engaged in commerce within this  
2 state to sell or offer to sell motor fuel below cost as defined in subdivision (2) of  
3 section 416.605[, if:

4 (1) The intent of the sale or offer is to injure competition; or

5 (2) The intent of the sale or offer is to induce the purchase of other  
6 merchandise, to unfairly divert trade from a competitor, or otherwise to injure a  
7 competitor].

8 2. It is unlawful for any person engaged in commerce within this state to  
9 sell or offer to sell motor fuel at a price lower than the seller charges other  
10 persons at the same time and on the same level of distribution[, if the intent of  
11 the sale or offer is to injure competition].

12 3. It is unlawful for a person engaged in commerce in this state to sell or  
13 transfer motor fuel to itself or an affiliate for resale in this state on a different  
14 marketing level of distribution at a transfer price lower than the price it charges  
15 a person who purchases for resale at the same time and on the same level of  
16 distribution[, if the intent of the sale or transfer is to injure competition].

416.640. 1. In any action brought [pursuant to] **under** sections 416.600  
2 to 416.640, the burden of proof, upon a prima facie showing of a violation, shall

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

3 shift to the defendant to show justification. Unless justification is shown, the  
4 court shall award judgment for the plaintiff.

5       **2. The investigation and enforcement provisions in chapter 407,**  
6 **RSMo, in particular sections 407.010 to 407.145, RSMo, shall apply to**  
7 **and may be used to investigate and enforce the provisions of sections**  
8 **416.600 to 416.640.**

9       **3. The provisions of sections 416.600 to 416.640 shall apply to**  
10 **motor fuel sales only, shall be applied at and to each individual retail**  
11 **motor fuel location, and shall not apply to overall company operations**  
12 **or profitability.**

Unofficial ✓

Bill

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